

U.S. Customs Issues Further Cable Installation Guidance for Offshore Wind

MAY 23, 2022

U.S. Customs and Border Protection just made public two rulings it issued on March 25, 2022 regarding the laying and burial by a foreign vessel of electrical cable for U.S. offshore wind power generation projects. The rulings amplify earlier guidance on what is permissible under current U.S. law.

CBP has long held that a foreign vessel may pick up pipe or cable in a U.S. port and lay it from that point to another point in the United States or otherwise between two U.S. “points.” What constitutes a U.S. “point” offshore is the subject of a number of CBP rulings.

The rationale is that the laying of pipe or cable is not the “transportation” of “merchandise” between two U.S. points which is proscribed by U.S. coastwise law known as the “Jones Act.” This holding was affirmed in the March 25 rulings.

U.S. law also restricts “dredging” in U.S. waters to qualified U.S.-flag vessels. “Dredging” generally means “excavation” which in turn CBP defines to mean “hollow out” or “to remove soil by digging, scooping out or other means.” U.S. waters means U.S. territorial waters which extend three nautical miles from the U.S. coast and beyond on the U.S. outer continental shelf if the laying of cable or pipe is related to the exploration, development or production of “resources” which includes renewable energy resources (as of January 1, 2021).

The requesters proposed utilizing pulled sleds which have water jets to fluidize the seabed either in preparation of later cable burial, in conjunction with cable laying, or for remedial burial of laid cable. In each instance, CBP confirmed that a device which utilizes water jets to fluidize the seabed is not engaged in “excavation” and therefore a foreign vessel undertaking these activities is not engaged in “dredging.”

One of the rulings also addressed recovery of cable ends by a foreign vessel for connection to new cable then laid by that vessel, “de-burial” of such an end utilizing a water jet tool, and placement of cable on seabed outside U.S. territorial waters for later recovery by a foreign vessel. In each instance, CBP determined that these activities as described in the ruling also can be accomplished lawfully with a foreign vessel.

2 Min Read

Author

[Charlie Papavizas](#)

Related Locations

Washington, DC

Related Topics

Offshore Wind

Related Capabilities

Maritime & Admiralty

Energy

Related Regions

North America

Related Professionals



[Charlie Papavizas](#)

This entry has been created for information and planning purposes. It is not intended to be, nor should it be substituted for, legal advice, which turns on specific facts.